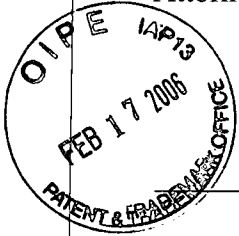


# TTAB

Attorney Docket No.: 77867.0003

TRADEMARK

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**



Carole S. Clarke, Ph.D

Opposer,

Corpus Optima, Inc.

Applicant.

Opposition No.

Application Serial No. 78/579,102

Mark: SUPERPERFORMANCE

Filed: March 3, 2005

02/23/2006 6THMAS2 00000047 78579102

01 FC:6402

600.00 OP

**NOTICE OF OPPOSITION**

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

Dear Sir or Madam:

Carole S. Clarke, an individual U.S. citizen, located and doing business at 9811 W. Charleston Blvd, Suite 2-193, Las Vegas, Nevada, 89117, (hereinafter "Opposer"), believing that she will be damaged by registration, hereby opposes Application Serial No. 78/579,102, filed March 3, 2005, under the Trademark Act of 1946, in the name of Corpus Optima, Inc., published for opposition in the Official Gazette of January 31, 2006, Vol. 1302, No. 5, at Page TM 185, for the mark SUPERPERFORMANCE.

1. The Opposer, Carole S. Clarke, is an individual, having a principal place of business at 9811 W. Charleston Blvd, Suite 2-193, Las Vegas, Nevada, 89117

2. Commencing long prior to Applicant's claimed date of first use, Opposer has engaged, and is now engaged in the distribution, sale, advertising and promotion in interstate commerce of:

printed publications, namely, books, articles, journals, and training manuals in the field of organizational and individual performance improvement, and motivational poster;



02-17-2006

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business consultation in the field of organizational and individual performance improvements;

training and instructional coaching services, namely, performance improvement workshops, seminars and tutorials; on line publication in the nature of books, journals, book instructional materials in the field of organizational and individual performance improvement; providing on line link directories in the field of organizational and individual performance improvement.

3. Commencing long prior to Applicant's claimed date of first use, Opposer has used, and is now using Opposer's mark SUPERPERFORMANCE.COM (hereinafter sometimes referred to as "Opposer's Mark") in connection with the goods and services listed above distributed and sold by Opposer in commerce.

4. Opposer is the owner of the mark SUPERPERFORMANCE.COM, and will rely herein upon the following federal trademark application, and the common law rights afforded by use of the mark since at least as early as October 9, 1997.

<u>MARK</u>	<u>APPLICATION NO.</u>	<u>FILED</u>
SUPERPERFORMANCE.COM	78/763,396	November 30, 2005

5. Since her initial use of the aforementioned mark, Opposer has made a substantial investment in promoting her goods and services under her mark. Opposer has extensively used, promoted and offered Opposer's goods and services bearing the mark to the public through various channels of trade in commerce, with the result that Opposer's customers and the public in general have come to know and recognize Opposer's mark and associate same with Opposer and/or goods and services sold by Opposer. Opposer has built extensive goodwill in connection with the sales of products and services under her mark.

6. Upon information and belief, notwithstanding Opposer's rights in and to its mark, on March 3, 2005, Applicant filed an application for registration of the alleged trademark for "SUPERPERFORMANCE " for "business consultation for organizational performance enhancement; and training services and instructional coaching services in the field of organization performance enhancement."

Said application was assigned Serial No.78/579,102, and was published for Opposition in the Official Gazette of January 21, 2006 at Page TM 185.

7. Applicant's mark is a simulation and colorable imitation of, and so resembles Opposer's aforesaid mark as to be likely, when used in connection with the services of Applicant, to cause confusion or mistake or to deceive purchasers resulting in damage and detriment to Opposer and its reputation.

8. Upon information and belief, Opposer and Applicant are both engaged in the sale and promotion of their respective goods and services through the same channels of trade, and to the same general class of purchasers.

9. Opposer, upon information and belief, avers that its customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's goods marketed under Applicant's alleged trademark and misled into believing that such goods are produced by, emanate from, or are in some way directly or indirectly associated with Opposer, to the damage and detriment of Opposer and its reputation.

10. Opposer, upon information and belief, avers that it will be damaged by the continued use and registration by Applicant of the alleged mark, as set forth in Applicant's Application Serial No. 78/579,102, in that the mark is substantially similar to Opposer's mark and common law rights and is used in connection with services identical or closely related to the services offered to the public by Opposer.

WHEREFORE, this Opposer, Carole S. Clarke, Ph.D. believes and avers that she is being and will continue to be damaged by registration of the mark as aforesaid, and prays that said Application Serial No. 7579,102 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

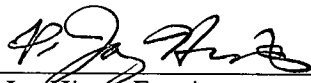
Opposer has appointed P. Jay Hines, Esquire, a member of the law firm of BAKER & HOSTETTLER LLP, a member of the Bar of the District of Columbia, to prosecute this opposition proceeding and to transact all business in and before the United States Patent and Trademark Office in connection herewith. Please address all correspondence to:

P. Jay Hines, Esquire  
Washington Square, Suite 1100  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5304  
Telephone: (202) 861-1500  
Fax: (202) 861-1783

The filing fee for this opposition in the amount of \$600.00 is enclosed herewith. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 50-2036.

Respectfully submitted,

CAROLE S. CLARKE, Ph.D.

By:   
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Telephone: 202.861.1500  
Fax: 202.861.1783  
Attorney for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of February, 2006, a true copy of Opposer's Opposition Pursuant to Rule 34 of the Federal Rules of Procedure and Sections 2.116 and 2.120 of the Trademark rules of Practice of the Patent and Trademark Office was served on counsel for Applicant, via U.S. first-class mail, postage prepaid to:

Jo Katherine D'Ambrosio, Esquire  
Patrick Traister, Esquire  
D'Ambrosio & Associates, P.L.L.C.  
Intellectual Property Law Firm  
10260 Westheimer Road, Suite 465  
Houston, Texas 77042

  
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Renee M. Thornton